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09/732,346	12/07/2000	Robert S. Hoblit	RPS920000097US1	1677

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT PAPER NUMBER

3627

DATE MAILED: 09/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/732,346

Applicant(s)

HOBLIT ET AL.

Examiner

F. Ryan Zeender

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-42 is/are pending in the application.
- 4a) Of the above claim(s) 14-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-13 and 40-42 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

✓ The drawings are objected to because the page margins (especially for Figs. 2 and 3) are too small. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

✓ Claim 12 is objected to because of the following informalities: In lines 2-3, it is not clear what the numerals "1" and "2" refer to. Appropriate correction/clarification is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

✓ Claim 42 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terminology, "statistically relevant" is indefinite because an exact definition has not been given.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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✓ Claim 40 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Specifically, regarding claim 40, nowhere in the original specification does it state that a threshold for triggering the notifying step is not based on a model pattern for a group of individual items. The specification simply states what the proposed invention is not that is couldn't be something else (i.e., what it is not).

***Claim Rejections - 35 USC § 103***

Claims 1-13, 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kagami et al. and Official Notice.

Kagami et al. disclose or inherently teach the limitations of the claim 1 (see specifically Fig. 2, and Col. 5, lines 6-41); except the reference lacks the specific teaching of “notifying an interested party” (the reference only teaches giving “advice to modify”; Col. 5, lines 40-41), and adjusting the corresponding time frame for a particular individual item if the estimated sales projection for the particular item does not exceed a minimum criteria.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kagami et al. to notify “an interested party” of the advice to modify the inventory control system, in order to provide a manager with the necessary

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information to act on the advice and hence change the system to improve the system's future accuracy.

Further, the Examiner takes Official Notice that it is well known in sales to adjust the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria. *For example, in real estate, an owner of a property has to have his house sold within two weeks due to a job transfer. The real estate agent has been selling houses in the neighborhood within one month on average (thus, the sales projection for this individual item is one month). Because the estimated sales projection (one every month) does not exceed the minimum criteria set by the owner of two weeks, the real estate agent has to adjust the corresponding time frame for selling the house to two weeks. Of course, in order to sell the house in two weeks, the agent would probably have to increase the demand for the house by either lowering the price or working harder to find more buyers.* Thus, this example describes how it is common in everyday business/sales to adjust the corresponding time frame for a particular individual item if the estimated sales projection for the particular individual item does not exceed a minimum criteria.

Re claims 2-13: The reference lacks the specific teaching of all of the limitations in the claims, however, these added limitations are well known in the art of inventory control and it would have been an obvious design choice at the time of the invention to modify Kagami et al. to include any one of the limitations of claims 2-13 in order to provide certain desired results.

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Re claim 41: The limitation would have been an obvious design choice at the time of the Kagami et al. invention, as it is well known that some "seasons" in sales have different time frames. For example, the back to school season may only last for a few weeks, but the Christmas season may last for a few months.

Re claim 42: No definition of "statistically relevant" has been given, thus Kagami et al. meets the limitation.

### ***Response to Arguments***

Applicant's arguments filed 7/21/03 have been fully considered but they are not persuasive.

Applicant's arguments with respect to "adjusting the time frame..." have been overcome by the new grounds of rejection described above.

Applicant's arguments with respect to Kagami not teaching inventory information for a particular individual item is not persuasive in that in order to monitor a class of goods, each individual item within that class has to be monitored, as is the case in Kagami (See Column 5).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

The receptionist's phone number for the Technology center is (703) 308-1113 and the customer service number is (703) 872-9325.



F. Zeender  
Primary Examiner, A.U. 3627  
August 28, 2003